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8 UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

9 In Re:

10 American West Development, Inc.,  
11 Reorganized Debtor.

Case No.: BK-S-12-12349-MKN  
Chapter: 11

12 **DECLARATION OF DANA DWIGGINS,**  
13 **ESQ., IN SUPPORT OF SCOTT LYLE**  
14 **GRAVES CANARELLI'S OPPOSITION**  
15 **TO REORGANIZED DEBTOR'S**  
16 **MOTION (I) TO REOPEN CHAPTER 11**  
17 **CASE; AND (II) FOR AN ORDER TO**  
18 **SHOW CAUSE WHY SCOTT LYLE**  
19 **GRAVES CANARELLI AND HIS**  
20 **COUNSEL SHOULD NOT BE HELD IN**  
21 **CONTEMPT FOR VIOLATING PLAN**  
22 **DISCHARGE, EXCULPATION,**  
23 **RELEASE AND INJUNCTIVE**  
24 **PROVISIONS**

DATE: March 21, 2018

TIME: 9:30 a.m.

21 Dana Dwiggins, Esq., being first duly sworn according to law, deposes and says:

22 1. The following facts are personally known to me, and if called to testify  
23 thereto, I could and would do so, under oath.

24 2. I am a partner at Solomon Dwiggins & Freer, Ltd., attorneys for Scott Lyle  
25 Graves Canarelli ("Scott", "Scott Canarelli", or "Petitioner"), and make this Declaration in  
26 support of Petitioner's Opposition to the Reorganized Debtor's Motion (I) to Reopen Chapter  
27 11 Case; and (II) for an Order to Show Cause why Scott Lyle Graves Canarelli and his  
28

1 Counsel Should not be Held in Contempt for Violating Plan Discharge, Exculpation, Release  
2 And Injunctive Provisions (the "Motion").

3 3. The documents which are attached to the Opposition as Exhibits 2, 6, and 7  
4 are true and correct copies of pleadings on file in the case designated the Matter of the Scott  
5 Lyle Graves Canarelli Irrevocable Trust, dated February 24, 1998, Eighth Judicial District  
6 Court Case No.: P-13-07912-T (the "Probate Court Proceedings"), pending in Dept. No.  
7 XXVI/PROBATE, before the Hon. Judge Gloria Sturman (the "Probate Court").  
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9 4. As reflected in the Opposition, the Original Petition in the Probate Proceeding  
10 was filed on September 30, 2013. Trustee Edward Lubbers filed a response to the Original  
11 Petition, and on October 24, 2013, the Probate Court entered an order compelling the  
12 Trustees to provide an inventory and accounting for the assets of the Irrevocable Trust for the  
13 time period between 1998-2013.  
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15 5. It was not until approximately September of 2016 that the Trustees finally  
16 submitted purported accountings as required by the Probate Court. There are outstanding  
17 issues relating to the accounting and the reconciliation of the financial information contained  
18 therein with tax returns and other financials.  
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20 6. On June 27, 2017, Petitioner filed the Surcharge Petition. Former Trustees  
21 Lawrence Canarelli, and Heidi Canarelli and Trustee Edward Lubbers filed a response to the  
22 Surcharge Petition, which did not raise any defense with respect to the ADWI bankruptcy.

23 7. In connection with preparation for trial on the Surcharge Petition, on October  
24 9, 2017, Petitioner served a subpoena on AWDI. On November 30, 2017, AWDI responded  
25 by submitting a written objection to the subpoena. In response to such objections, I sent a  
26 letter on January 9, 2018, responding to the objections, but agreeing to narrow the scope of  
27 the subpoena. Counsel for the AWDI thereafter attended a meet and confer with me on  
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1 January 23, 2018, but we were unable to reach an agreement. Petitioner has not yet filed a  
2 motion to compel with regard to the subpoena issued to AWDI.

3 8. A hearing was held before the Discovery Commissioner on March 2, 2018  
4 with regard to discovery directed to other entities (despite the Trustees' request to postpone  
5 the hearing until after the instant Motion is heard by this Court). The Discovery  
6 Commissioner recommended, in part, that the Trustees produce documents specific to certain  
7 requests made in written discovery.  
8

9 I declare under penalty of perjury that the foregoing is true and correct.

10 Dated this 7<sup>th</sup> day of March, 2018.

11 /s/ Dana Dwiggins  
12 DANA DWIGGINS, ESQ.  
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